THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.26001 OF 2005

DATED: 20-08-2007

BETWEEN

P. Rajagopal Rao, S/o. Bheema Rao,
Occ: Business/Social Service,
R/o. CCC Cross Roads, Ramnagar,
Mancherial, Adilabad District.

...PETITIONER

AND

The Additional Director General
of Police, Intelligence Department,
A.P. Hyderabad and two others.

...RESPONDENTS

ORDER:

Petitioner, a permanent resident of Ramnagar (CCC X Roads), Mancherial of Adilabad District, submits that as he had threat of life from Naxals the police provided three gunmen for his protection for a period of three months during the last Assembly elections. He further submits that in view of the increased threat perception the Circle Inspector of Police, Mancherial - third respondent issued a notice dated 01.02.2005 instructing him as well as the local police to take certain precautionary measures. Accordingly, he made a representation dated 27.02.2005 to the Superintendent of Police – second respondent requesting him to provide two gunmen for his security as there is threat to his life from the Maoists. Pursuant to letter C.No.34/SB/05 (383) dated 13.05.2005 of the second respondent recommending his case for providing security and in view of his further representation dated 24.03.2005, the Additional Director General of

Police, Intelligence Department – first respondent vide order dated 03.06.2005 directed the second respondent to provide two PSOs to him on payment basis, if agreed, by him.

2. The order of the first respondent dated 03.06.2005 was questioned by the petitioner in W.P.No.12342 of 2005 and this Court by order dated 06.10.2005 disposed the writ petition giving a liberty to the petitioner to make an appropriate representation before the Government with regard to the payment of the cost for providing security and to provide security at the cost of the State and if such a representation is made, the same was directed to be disposed of within two weeks. Pursuant to the said order of this Court, the petitioner made a representation dated 15.10.2005 for providing security but without assigning any reasons the first respondent by the impugned proceedings dated 16.11.2005 directed to provide three PSOs out of which two at a time on payment basis, only after due advance is paid as per rules.

3. Learned counsel for the petitioner submits that as per the orders of the Government in G.O.Rt.No.655 Home (SC.B) Department dated 13.03.1997 it is the duty of the State to protect the lives of the individuals from the menace of extremists/Maoists. He further submits that the petitioner never asked for any security either because of his involvement in any case or because of threat from rival group, enemies or factionists, the respondents themselves reviewed the situation over the area and came to the conclusion that there is a threat to the life of the petitioner from the Maoists and provided security as per clause C(8) of the aforesaid Government order to provide personal security officers at State's cost.

4. Counter has been filed without denying the allegations about the threat to the life of the petitioner from the Maoists and stated that the first respondent followed the guideline No.2 of clause C of the aforesaid Government order as to providing security on payment basis. It is stated that the petitioner was involved in Cr.No.31 of 2005 registered under

Sections 365, 386, 323 read with Section 34 of the Indian Penal Code, 1860. Therefore, as the per Clause C(6), a person having criminal background should not be given security except when the criminal case is closed or acquitted against him.

Thus, the impugned proceedings issued by the first respondent is valid and in accordance with the guidelines issued by the Government in G.O.Rt.No.655.

5. I have perused the order of the Government in G.O.Rt.No.655 dated 13.03.1997, according to which, the State Level Security Review Committee as well as the Unit Officer at District/City level are required to protect every citizen and the individuals on threat perception.

No doubt, under Clause C(2) a private person may be provided individual security on threat perception, on payment basis only, subject to availability of man-power with the unit officer concerned, but as per Clause C(6) even for a person having criminal background, in case there is a genuine threat from the Naxals of PWG,

the Inspector General of Police, Intelligence, who is the Nodal Authority at the State Level Security Review Committee, is entitled to give security. In the instant case, the pending criminal case has nothing to do with the life threat to the petitioner, as admittedly, according to the respondents there is a genuine threat to the life of the petitioner from the Naxals. If that be so, as per the second limb of clause C(6) read with Clause C(8), as there is threat to the life of the petitioner, the State is under obligation to provide security at the State's cost. Clause C(8) reads as follows:

> "Any person who has become a target of extremist by virtue of helping the State by giving some information etc., and thereby invited the wrath of the extremists can be provided personal security officers at State's cost as it is a social obligation of the State. Such provision of security should be reviewed once in every six months in the Security Review Committee by the Nodal Authority."

6. It is not in dispute that wherever there is threat to life from the Maoists the State has been providing security at its costs but not at the cost of the

individual. As per the list submitted by the first respondent with regard to security provided to the individuals and
as per the decisions of the Security Review Committee meeting 2007,
it can be figured out that all the concerned persons who are having threat to life from the Maoists have been provided security at State's cost, therefore, I am of the opinion that the petitioner, who is having threat to life from the Maoists, is entitled to be provided security at State's costs.

Having regard to the facts and circumstances of the case,
the writ petition is allowed directing the respondents to provide security to the petitioner at State's cost. There shall be no order as to costs.

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V. ESWARAIAH, J

August 20, 2007
DSK